

- (i) sexual intercourse, including genital [to] genital, oral [to] genital, anal [to] genital, or oral [to] anal, whether between persons of the same or opposite sex; [or]
- (ii) bestiality; [or]
- (iii) masturbation; [or]
- (iv) sadistic or masochistic abuse; or

(v) [the] lascivious exhibition of the genitals or pubic area of any person."

4. The term "computer" is defined, pursuant to Title 18, United States Code, Sections 2256(6) and 1030(e)(1), as any:

"electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator or other similar device."

5. The term "producing" is defined, pursuant to Title 18, United States Code, Section 2256(3) and case law, as:

"producing, directing, manufacturing, issuing, publishing or advertising," and includes downloading images from another source, buy using materials, including a computer or parts thereof.

6. The term "visual depiction" is defined, pursuant to Title 18, United States Code, Section 2256(5), as including, but is not limited to, any:

"undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image."

COUNT ONE
(Possession of Child Pornography)

On or about January 6, 2021, in the Southern District of Texas, within the jurisdiction of the Court and elsewhere, Defendant,

JOSE ALFREDO FERNANDEZ-MARTINEZ,

did knowingly possess material that contained multiple images of child pornography, including depictions of a prepubescent minor or a minor who had not attained 12 years of age, which had been shipped and transported using any means and facility of interstate or foreign commerce or in or affecting interstate and foreign commerce by any means, including by

computer, or that was produced using materials that have been mailed, shipped, and transported in or affecting interstate and foreign commerce, by any means, including by computer, more specifically: the defendant possessed an Alcatel cell phone that contained images and videos of child pornography.

All in violation of Title 18, United States Code, Sections 2252A(a)(5)(B) and 2252A(b)(2).

COUNT TWO
(Sexual Exploitation of Children)

From on or about August 2, 2020 through on or about January 6, 2021, within the Southern District of Texas, Defendant,

JOSE ALFREDO FERNANDEZ-MARTINEZ,

did employ, use, persuade, induce, entice and coerce and attempt to employ, use, persuade, induce, entice and coerce a minor child, to wit: Minor Victim #1, a child under the age of 18 years old, to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, and such visual depiction was produced using materials that had been mailed, shipped and transported in interstate or foreign commerce by any means, and said visual depiction was actually transported or transmitted using any means or facility of interstate or foreign commerce.

In violation of Title 18, United States Code, Section 2251(a) and 2251(e).

NOTICE OF FORFEITURE
18 U.S.C. § 2253(a)

Pursuant to Title 18, United States Code, Section 2253(a)(2) and (a)(3), the United States gives the defendant notice that in the event of conviction for the offenses charged in the Indictment, the United States will seek to forfeit all property, real and personal, constituting or

traceable to gross profits or other proceeds obtained from the offenses charged in the Indictment and all property, real and personal, used or intended to be used to commit or to promote the commission of the offense charged in the Indictment or any property traceable to such property, including, but not limited to, the following:

Alcatel cell phone

A TRUE BILL:

FOREPERSON OF THE GRAND JURY

JENNIFER B. LOWERY
ACTING UNITED STATES ATTORNEY

 *for*
ANA C. CANO
ASSISTANT UNITED STATES ATTORNEY